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October 27, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Mail Stop Code 1170
Washington, D.C. 20544

RE: Ex Parte Presentation
CC Docket No. 96-115 -- Customer Proprietary Network Information

Dear Ms. Roman Salas:

Pursuant to the requirements of Sections 1.1200 et seq. of the Commission's Rules, you are hereby notified that Gerry Salemme, Senior Vice President of NEXTLINK Communications, Inc. and I met yesterday with Kyle Dixon, Legal Advisor to Commissioner Michael Powell and today with Paul Gallant, Legal Advisor to Commissioner Gloria Tristani regarding the above-referenced docket. We provided both Mr. Dixon and Mr. Gallant the attached materials summarizing NEXTLINK's views on the use of customer proprietary network information by local exchange carriers for "customer retention" purposes. Should there be any questions regarding this matter, please contact the undersigned.

Sincerely,


Cathleen A. Massey
Public Policy & Assistant General Counsel

cc: Mr. Kyle Dixon
Mr. Paul Gallant

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No. of Copies rec'd 025
List A B C D E

October 13, 1998

Presentation of NEXTLINK Communications, Inc. re: ILEC "Win-Back" Campaigns

- In several regions of the country, NEXTLINK Communications, Inc. has experienced a pattern of conduct that appears to result from the ILEC misuse of NEXTLINK's confidential carrier information in violation of Section 222(b) of the Telecommunications Act of 1996.
 1. Section 222(b) specifies that "[a] telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts."
 2. Section 222(b) prohibits the ILECs from sharing with their marketing teams information gathered through the CLEC ordering process for unbundled loops that a customer or potential customer may be considering the services of another carrier.
 3. Furthermore, the Commission found in Rule Section 64.2005 and in its Second Report and Order and Further Notice of Proposed Rulemaking in its CPNI proceeding that Section 222 does not permit:

[T]he former (or soon-to-be former) carrier to use the CPNI of its Customer (i.e., a customer that has placed an order for service from a competing provider) for "customer retention" purposes. Consequently, a local exchange carrier is precluded from using or accessing CPNI derived from the provision of local exchange service, for example, to regain the business of a customer that has chosen another provider.

CPNI Second Report and Order and Further Notice of Proposed Rulemaking at paragraph 85.

- Despite the prohibition contained in Section 222, NEXTLINK has found in several regions of the country that its request for customer service records ("CSR") necessary to market NEXTLINK services to a customer has appeared to prompt a "win-back" campaign by the ILEC.
 1. These "win-back" campaigns are often initiated within days of NEXTLINK's request for the CSR. In many cases, the customer did not call the ILEC to indicate that the customer was considering switching service to a CLEC. Often the "win-back" campaign will be the first contact the customer has had with its ILEC customer representative. The campaigns often include the provision of information comparing the ILEC to CLECs and an offer of monetary incentives to stay with the ILEC.

2. Since typically the customer did not contact the ILEC to notify the ILEC that it was switching carriers, the timing of the "win-back" campaign was either triggered by NEXTLINK's request for the CSR or was an odd coincidence.
 3. One RBOC admitted to NEXTLINK that its sales agents had access to the CSR notification request system and had been systematically monitoring which customers were being courted by NEXTLINK. The sales agents launched a "win-back" campaign when they noticed that NEXTLINK had ordered a CSR. This RBOC has told NEXTLINK that since this issue was drawn to its attention, it has established a firewall between the CSR process and its marketing team. While NEXTLINK noticed a reduction in the number of "win-back" incidents immediately after its complaint, the problem has recently resurfaced.
 4. BellSouth has been particularly aggressive in its "win-back" efforts. When NEXTLINK launched service in Atlanta a few months ago, it found that its second unbundled loop customer was contacted by E-mail by its "dedicated account representative" within days of NEXTLINK requesting a CSR. The E-mail stated "[a]ttached are a few documents you may want to look at concerning BellSouth and our competitors. They are well worth reading if you are considering switching your local service." Included in the package was a document entitled "Facts to Know and Questions to Ask in the New Competitive Telecommunications Market" which purported to inform the customer of how its telecommunications service would change if it selected a CLEC. The package also included a checklist to be used by the customer to compare CLECs with BellSouth. Finally, the BellSouth account representative offered the customer a month of free service each year to stay with BellSouth.
- In other cases, former ILEC customers that are now NEXTLINK customers have been targeted for so-called "focus groups" and other marketing initiatives designed to determine why the customer switched services from the ILEC.

----- Forwarded by Niel Bekker/NEXTLINK on 09/25/98 10:48 AM -----

To: Niel Bekker/NEXTLINK
cc:
Subject: Fw: Competitive Questions

Forwarding the e-mail I received from BellSouth. They offered a rebate twice a year to stay with them. The rebate worked out to be one month free each year.

Please let me know how the 888# is coming along.
Thanks,
Mark

-----Original Message-----

From: Matthew_Fisher@bbs.bellsouth.com <Matthew_Fisher@bbs.bellsouth.com>
To: Mark_Bittick@walkergreenbank.com <Mark_Bittick@walkergreenbank.com>
Date: Thursday, September 24, 1998 10:14 AM
Subject: Competitive Questions


>Mark:
>Attached are a few documents you may want to look at concerning BellSouth
>and our competitors. They are well worth reading if you are considering
>switching your local service. Please let me know if you had trouble
>receiving them.
>Mark, BellSouth appreciates your business. If at any time you have any
>questions concerning your services from BellSouth or any of our products or
>services, please feel free to call me. I am Walker Greenbank's dedicated
>account representative, and I can handle any changes or additions that you
>may like to make to your account. Please feel free to e-mail me or call me
>at 404-327-5098 or 888-280-7966.
>
>Thanks,
>
>Matt Fisher
>Account Executive
>404-327-5098
>
>(See attached file: Qs_For_Customers .doc)(See attached file: Questions to
>Ask.doc)(See attached file: Stay with BellSouth.doc)
>



- Qs_For_Customers .doc



- Questions to Ask.doc

 - Stay with BellSouth.doc

Facts to Know and Questions to Ask in the New Competitive Telecommunications Market

If you have been approached regarding moving your local telecommunications services from BellSouth to a competitive local service provider, the following information should be beneficial in helping you examine your options.

The two types of Competitive Local Exchange Carriers (CLEC) are **Resellers** and **Facilities-Based Providers**.

- **Resellers** purchase services from BellSouth and resell them to the end-user (you). These resellers become BellSouth's customer of record. BellSouth continues to maintain the switch and facilities associated with providing services to the CLEC and the CLEC, not you (the end-user), is BellSouth's customer.
- **Facilities-based providers** either own or lease facilities (including switches, transport, copper/fiber, etc.) and sell services on these facilities to end users.

There are several areas which should be reviewed prior to making a decision changing your local service provider. The following is a list of these areas and potential questions that should be asked as the options are under consideration.

How Your Telecommunications Service Will Change

Reseller

- BellSouth's Customer of Record is the CLEC. BBS Account Teams will have no access to the CLEC customer's individual records. BellSouth will become a subcontractor to the CLEC.
- No BellSouth Business Systems Account Team involvement will be available once service has been switched to a CLEC. This often includes an Account Manager, a Systems Designer, a Project Manager, one or more Service Consultants, one or more Customer Service Associates, and often a Service Manager. Account Team knowledge of the end-user customer including experiences, motivations, historical evolution cannot be shared with the CLEC. The CLEC will have a BellSouth Account Team, but you, the end-user will only have contact with the CLEC.
- BellSouth repair technicians will be utilized, but only at and through the direction of the CLEC.
- The End-User must contact the CLEC for all service. The CLEC's service/repair center availability, staffing, experience should be considered. Following are examples of the types of calls that will be directed to the CLEC.
 - Repair
 - Orders
 - Billing Questions
- Bills will be rendered directly to the end-user from the CLEC. Consideration should be given to the CLEC's ability to provide expected levels of billing services, i.e. Bill Management Service, CLUB & Regional Billing.

- If the end-user customer is currently under a BellSouth contract, the CLEC must assume this contract. If the contract is not transferred to the CLEC, the end-user customer will be obligated for all termination liabilities.

Resellers (continued)

- The CLEC is responsible for passing information to BellSouth for listings in the White and Yellow Pages. The end user will receive a separate bill from BellSouth Advertising & Publishing for Yellow Page Listings.
- Directory Assistance (411) and Dial "0" Services may not be handled through BellSouth. Some CLEC's have contracted with an outside firm to handle these services from a central location.
- Additional items which should be considered include:
- If BellSouth tariff rates are decreased, will the CLEC pass these same savings on to their customers?
- What service guarantees does the CLEC provide? Can you move your service back to BellSouth if you are not totally satisfied? Who pays for re-installation charges with BellSouth?

Recommended Checklist:

Listed below are items which customers considering transferring their BellSouth service to a CLEC under resale should consider.

1. Ensure that the new provider has staff/personnel available during normal business hours to support add, move and change requests to BellSouth.
2. Ensure that the new provider is available on a 24x7 basis, 365 days per year to support repair requests to BellSouth.
3. Ensure that the new provider verifies all adds, moves, and changes supported by the CLEC with the BellSouth 911 data base to insure accuracy of location information.
4. Ensure that the new provider takes responsibility for the accuracy of white page and blue page (for governmental customers) information before publication of the local telephone book.
5. For complex services, ensure that CLEC personnel understand products and services currently installed such as DECAS, P-Phones for DMS ESSX customers, FlexServ, etc.
6. For customers with existing BellSouth contracts, ensure that the new provider agrees to assume contractual responsibility for the contract, e.g., an existing ESSX contract.
7. For governmental customers, ensure that the new provider understands restoration priority procedures for critical services during a declared natural disaster, e.g., hurricane, tornado, flood, etc.

Questions to Ask Any Telecommunications Provider

<i>Question</i>	<i>BellSouth's Response</i>	<i>Competition's Response</i>
How many switches do you have?	1650. They process over 260 million calls per day.	
<i>Where are the switches? Are they in a secured area? Do they have fire protection? What are the construction standards? Are there environmental controls?</i>	<i>BellSouth's Central Offices are located throughout the Southeast. They are all secured and built to withstand Category 5 hurricanes.</i>	
Who owns the switches?	BellSouth	
<i>What hours are the switches manned?</i>	<i>24 hours a day, 7 days a week</i>	
Do the switches have battery and generator backup?	Yes	
<i>Are spare switches available?</i>	<i>Yes</i>	
Who owns the facilities (fiber or copper)?	BellSouth	
<i>What percentage of the facilities are on fiber?</i>	<i>89% of all facilities. 98% of interoffice facilities.</i>	
What percentage of the facilities are buried or aerial?	80% are buried, either conduit or trench.	
<i>Are redundant facilities available?</i>	<i>Yes</i>	
Who maintains the switches and facilities?	BellSouth	
<i>Who does the customer call for repairs?</i>	<i>BellSouth</i>	
What are the Repair Center hours?	24 hours a day, 7 days a week	
<i>Who does the repairs?</i>	<i>BellSouth</i>	
How many technicians are in the area?	28,000	
<i>How much training do the technicians have?</i>	<i>Minimum of 10 weeks training</i>	
Are there disaster recovery plans in place?	Yes	
<i>What billing options are offered?</i>	<i>A variety of options are available including Regional Billing, Customized Billing, and Bill Management Service software.</i>	
Are the rates guaranteed? If rates decrease for other customers, do I also get the benefit?	If a customer is under a signed contract, their rates are guaranteed and they will not increase or decrease. If there is no contract, rates could increase or	

	decrease based on the tariff.	
<i>What features or services can they provide (BRI, PRI, etc.)?</i>	<i>Depending on the switch, BellSouth is able to provide all technologies including Frame Relay, BRI, PRI, and other services.</i>	
Are the rates flat or measured rate?	Depending on the service rates are either flat, measured, or you may have an option to choose.	
<i>Who answers when you dial 0 or 411?</i>	<i>BellSouth</i>	

Why Should I Stay with BellSouth?

The BellSouth Story

BellSouth Corporation

- Local, cellular, long-distance, Internet, directory listing/operator and video services to more than 30 million customers in 20 countries.
- Revenues exceeded \$20.5 billion in 1997 - 56th on Fortune 500.
- 23 million lines in service in the nine states where BellSouth operates: AL, FL, GA, KY, LA, MS, NC, SC, and TN.
- BellSouth installed more than one million new lines during both 1996 & 1997.
- 70,000+ employees in 2,500 communities with average of 19 years industry experience.
- International service, including long distance, local and cellular in Latin America, Europe, Israel and New Zealand.
- Price Reductions totaled \$1.7 Billion in 1996
- 96 Olympic Games = 1 Billion Wireline Calls, 3,900 Hours of Video, and 10 Million Cellular Calls without one second of downtime.
- Bundling of Local Service, Cellular, Yellow Pages, InterNet, Long Distance & Future Technologies to be available in the near future.
- BellSouth named number one in customer satisfaction for local telephone service by Fortune magazine.
- Last fall, in independent surveys, both the Yankee Group and J. D. Power & Associates came to the same conclusion.
- BellSouth named top local service provider in nation by Forbes magazine.

Reasons to Partner with BellSouth

- | | |
|------------------------------|---|
| • Financial Strength | \$21 Billion in Revenues |
| • Leading-edge Technology | Over 2.3 Million Fiber Miles |
| • Network Infrastructure | \$3+ Billion Invested in both 1997 and 1998 |
| • Knowledgeable Account Team | Best Telecom Training |
| • Customer Service | 24X7 BRC Centers |
| | 66,000 customer orders / day |

BellSouth Strengths

- 2.3 million miles of fiber in service.
 - 80% in ground, either conduit or trench.
 - 98% interoffice circuits on fiber.
 - 7,785+ SONET Rings in service.
 - 60,181 fiber route miles in service.
- 1,650 central offices.
 - Built to withstand Category 5 hurricanes.
 - Processes more than 260,000,000 calls per day.
 - 93.6% Digital Central Offices
- 28,000 technicians living in cities they serve.
 - Minimum of 10 weeks training.

BellSouth Strengths 24x7

- Business Repair Centers staffed 24x7 specifically for our business customers.
- Two fully redundant Network Reliability Centers staffed 24x7.
- Data Customer Support Center staffed 24x7 dedicated for our data customers.
- Small Business Repair Centers staffed 24x7.

Georgia Strengths

Central offices & Fiber miles

- Atlanta
 - 100 central offices in local calling area (area about the size of New Jersey)
 - 301,888 fiber miles, 73% buried or in conduit
- Georgia Outstate
 - 101 central offices
 - 176,904 fiber miles, 75% buried or in conduit

Fiber growth

- Atlanta
 - 40,306 fiber miles added in last 24 months
 - Avg. 80.6 miles per business day
- Georgia Outstate
 - 19,971 fiber miles added in last 24 months
 - Avg. 39.9 miles per business day

General Information

Access Lines in Service

- | | |
|---|-----------|
| • Atlanta Local Calling Area (March 1998) | 2,731,546 |
| • Georgia Outstate | 1,312,465 |
| • % lines served by digital machines | 76.1% |
| • % lines with access to digital machines | 81.0% |

SONET Rings:

- | | | |
|---------------|-------|------|
| • Interoffice | 263 | 12% |
| • SMARTGATE | 145 | 6% |
| • Loop | 1,633 | 74% |
| • SMARTPATH | 181 | 8% |
| • TOTAL | 1,804 | 100% |

- 209 LANs Implemented with 6 additional LANs scheduled in 1998.
- 3 WANS for Public Network.